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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0094; Notice 2]

Ferrari North America, Inc., Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Ferrari North America, Inc. (FNA), has determined that certain model year (MY) 2007-2009 Ferrari F430 passenger cars do not fully comply with paragraph S4.4(c)(2), of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. FNA filed a report dated July 16, 2014, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*. FNA then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Kerrin Bressant, Office of Vehicles Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-1110, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, FNA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on June 17, 2015, in the **Federal Register** (80 FR 34787). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2014-0094."

II. Vehicles Involved: Affected are approximately 1,975 MY 2007-2009 Ferrari model F430 passenger cars manufactured from September 1, 2007 through July 29, 2009.

III. Noncompliance: FNA explains that the Tire Pressure Monitoring System (TPMS) malfunction indicator illuminates as required by FMVSS No. 138 when a malfunction is first detected, however, if the malfunction is caused by an incompatible wheel, when the vehicle ignition is deactivated and then reactivated to the "On" ("Run") position after a five-minute period, the malfunction indicator does not re-illuminate immediately as required. FNA added, that the malfunction indicator in the

subject vehicles will re-illuminate after a maximum of 40 seconds of driving above 23 miles per hour (mph).

IV. Rule Text: Paragraph S4.4(c)(2) of FMVSS No. 138 requires in pertinent part:

S4.4 TPMS Malfunction.

...

(c) *Combination low tire pressure/TPMS malfunction telltale.* The vehicle meets the requirements of S4.4(a) when equipped with a combined Low Tire Pressure/TPMS malfunction telltale that:

(2) Flashes for a period of at least 60 seconds but no longer than 90 seconds upon detection of any condition specified in S4.4(a) after the ignition locking system is activated to the "On" ("Run") position. After each period of prescribed flashing, the telltale must remain continuously illuminated as long as a malfunction exists and the ignition locking system is in the "On" ("Run") position. This flashing and illumination sequence must be repeated each time the ignition locking system is placed in the "On" ("Run") position until the situation causing the malfunction has been corrected. ...

V. Summary of FNA's Analyses: FNA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

A) FNA stated that the TPMS in the subject vehicles generally functions properly to alert the driver to a low tire pressure. Moreover, the TPMS malfunction indicator illuminates as required when a problem is first detected. If, however, there is an incompatible wheel and tire unit, when the vehicle ignition is

deactivated and then reactivated after a five-minute period, the malfunction indicator does not re-illuminate immediately as required by FMVSS No. 138. According to FNA, the malfunction indicator will illuminate shortly thereafter, and, in any event, it will illuminate in no more than 40 seconds after the vehicle accelerates above 23 mph. Once the vehicle has accelerated above 23 mph for a period of 15 seconds, the TPMS will seek to confirm the sensors fitted to the vehicle, and in the case a sensor is not fitted, the TPMS will detect this condition within a maximum of 25 additional seconds and activate the malfunction indicator. Thus, FNA explained that even in the presence of the noncompliance, drivers are warned of the malfunction in less than one minute of driving at or above normal urban speeds.

- B) FNA further explained that if the TPMS fails to detect a compatible wheel sensor, the TPMS monitor will display no value for the tire pressure of the affected wheel(s). The TPMS monitor will alert the driver to the fact that something is not functioning properly with the system, pending the illumination of the malfunction indicator.

- C) FNA said that the noncompliance is confined to one particular aspect of the functionality of the otherwise compliant TPMS malfunction indicator. All other aspects of the low-pressure monitoring system functionality are fully compliant with the requirements of FMVSS No. 138.
- D) FNA said it is not aware of any customer complaints, field communications, incidents or injuries related to this condition.

In summation, FNA believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt FNA from providing notification of noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S DECISION:

NHTSA's Analysis: FNA explained that although the malfunction indicator does not re-illuminate immediately after the vehicle is restarted, it will illuminate shortly thereafter - within 40 seconds after the vehicle speed exceeds 23 mph.

NHTSA agrees with FNA that the malfunction indicator will not illuminate as required during very short periods of time when the vehicle is traveling at low speeds and thus poses little risk to vehicle safety. Under normal driving conditions,

a driver will begin a trip by accelerating moderately beyond 23 mph, and as explained by FNA, once the vehicle accelerates above 23 mph, the malfunction indicator re-illuminates and then it will remain illuminated for the entire ignition cycle, regardless of vehicle speed. We agree the noncompliance will only occur in the very rare case where the driver begins a trip and never exceeds the 23 mph threshold, the speed required to re-activate the malfunction indicator. No real safety risk exists because at such low speeds there is little risk of vehicle loss of control due to underinflated tires. Furthermore, the possibility that the vehicle will experience both a low inflation pressure condition and a malfunction simultaneously is highly unlikely.

FNA stated that if the TPMS fails to detect the wheel sensors, a TPMS monitor is also provided that displays on its TPMS pressures screen "---" warning the driver that the status of the wheel sensor is not confirmed. The agency evaluated the displays FNA uses in the noncompliant vehicles. In addition to the combination telltale indicator lamp, the subject vehicles are equipped with a "plan view" icon which displays the pressures for all four wheels individually. If any wheel has a malfunctioning pressure sensor the indicator for that wheel displays several dashes indicating there is a problem with that respective wheel. The additional information is not

required by the safety standard, but can be used as an aid to the driver to determine the status of a vehicle's tires.

FNA discussed that the noncompliance only involves one specific aspect of the malfunction and that the primary functions of the TPMS, identification of other malfunctions and identification of low inflation pressure scenarios, is not affected.

The agency agrees with FNA's reasoning that the primary function of the TPMS is to identify low tire inflation pressure conditions which FNA's system does as required by the safety standard. Also, there are a variety of other malfunctions that can occur in addition to the delayed re-illumination malfunction identified in this petition. We understand from FNA that the TPMS installed in the subject vehicles will otherwise perform as required.

FNA mentioned that they have not received or are aware of any consumer complaints, field communications, incidences or injuries related to this noncompliance. In addition to the analysis done by FNA that looked at customer complaints, field communications, incidents or injuries related to this condition, NHTSA conducted additional checks of NHTSA's Office of Defects Investigations consumer complaint database and found two subject vehicle complaints both of which were determined to be unrelated to this petition.

NHTSA's Decision: In consideration of the foregoing analysis, NHTSA has decided that FNA has met its burden of demonstrating that the FMVSS No. 138 noncompliance is inconsequential to motor vehicle safety. Accordingly, FNA's petition is hereby granted and FNA is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that FNA no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after FNA notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at
49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Director,
Office of Vehicle Safety Compliance.

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